FILE COPY

Nos. 15, 106, 84, 86

Office Supreme Court, U. S.
FILED
OCT 23 1930
CHARLES ELMORE CROPLEY
CLERK

# In the Supreme Court of the United States

OCTOBER TERM, 1930

BURNS POE, COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF WASHINGTON

*v.*

H. G. SEABORN

FRED O. GOODELL, COLLECTOR OF INTERNAL REVENUE

*v.*

I. B. KOCH

*ON CERTFICATES FROM THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT*

GEO. C. HOPKINS, COLLECTOR OF INTERNAL REVENUE, PETITIONER

*v.*

C. W. BACON

JACOB O. BENDER, COLLECTOR OF INTERNAL REVENUE, PETITIONER

*v.*

WILLIAM PFAFF

*ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT*

**MEMORANDUM REGARDING PRESENT PRACTICE AS TO ESTATE TAXES IN COMMUNITY PROPERTY STATES**

# In the Supreme Court of the United States

OCTOBER TERM, 1930

---

No. 15

BURNS POE, COLLECTOR OF INTERNAL REVENUE FOR the District of Washington

*v.*

H. G. SEABORN

---

No. 106

FRED O. GOODELL, COLLECTOR OF INTERNAL REVENUE

*v.*

I. B. KOCH

---

*ON CERTIFICATES FROM THE CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT*

---

No. 84

GEO. C. HOPKINS, COLLECTOR OF INTERNAL REVENUE, petitioner

*v.*

C. W. BACON

---

No. 86

JACOB O. BENDER, COLLECTOR OF INTERNAL REVENUE, petitioner

*v.*

WILLIAM PFAFF

---

*ON WRITS OF CERTIOARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT*

---

**MEMORANDUM REGARDING PRESENT PRACTICE AS TO ESTATE TAXES IN COMMUNITY PROPERTY STATES**



19396—30

TREASURY DEPARTMENT,
BUREAU OF INTERNAL REVENUE,
*Washington, October 22, 1930.*

GC:C:FFT
229057

Hon. G. A. YOUNGQUIST,
*Assistant Attorney General,*
*Department of Justice,*
*Washington, D. C.*

SIR: During the argument of the case of *Poe, Collector,* v. *Seaborn* in the Supreme Court yesterday, Mr. Justice Sutherland asked the Solicitor General concerning the practice of the Treasury Department in the administration of the Federal estate tax in the eight community property states. You have requested a short memorandum on this subject.

You are advised that the opinion of the Attorney General Palmer dated March 3, 1921, which was published as T. D. 3138, Volume 23, Treasury Decisions, page 238, has been consistently followed (except for a short period with respect to the State of California) and represents the practice of the Department to-day. In other words, for estate-tax purposes in the States of Washington, Arizona, Idaho, New Mexico, Louisiana, and Nevada there is included in the gross estate of a deceased spouse one-half only of the community property of the husband and wife domiciled therein.

It will be noted that under that opinion a different rule was applied as to the State of California.

In that state the entire value of the community property was included in the gross estate of a deceased husband. That practice was consistently followed until the decision in the case of *Wardell* v. *Blum*, C. C. A. 9th, 276 Fed. 226, certiorari denied 258 U. S. 617. In that case it was held that only one-half of the community property should be included in the gross estate of the husband. After the decision of the Supreme Court in the *Robbins case* the practice of including the value of all community property in the gross estate of the husband was resumed. This was sustained in the case of *Talcott* v. *United States*, C. C. A. 9th, 23 Fed. (2d) 897, certiorari denied 277 U. S. 604. This represents the practice of the Department to-day with respect to the State of California.

A more detailed summary of the practice concerning this subject will be found in Commerce Clearing House 1930 Standard Federal Tax Service, Volume II, page 1827, paragraph 2052.

Respectfully,

C. M. CHAREST,
*General Counsel.*

---

Respectfully submitted.

THOMAS D. THACHER,
*Solicitor General.*

OCTOBER, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930